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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

FCC 94-100
FURTHER NOTICE OF PROPOSED RULE MAKING

Concerning GN Docket No. 93-252

Regulatory Treatment of Mobile Services)

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

REPLY COMMENTS RE FURTHER NOTICE OF PROPOSED RULE MAKING

Due: July 11, 1994

Robert Fay, President

The RF Technologies Group

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July 12, 1994

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IN REPLY TO COMMENTS FILED BY AMTA
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I have only had the opportunity to review pages nineteen (19) through twenty-seven (27) which constitutes the 220 MHz portion of the AMTA filing, thus I must limit my comments to the issues covered therein.

In its' comments, AMTA accessed there to be four issues it considers vital to the success of 220 MHz service: 1) 220 MHz is not substantially similar to any common carrier service; 2) existing 220 MHz licensees must be provided symmetry in regulation; 3) existing 220 MHz licensees must be allowed to modify their license parameters before new licenses are awarded; and 4) regional licensing of 220 MHz channels should be structured to promote rapid commencement of service to the public and vigorous competition among licensees. My comments to these four issues are as follows:

1) As indicated in my own filings, I find I support the AMTA position that 220 MHz is not substantially similar to Part 22 services nor is it comparable to any Part 90 services or to narrowband PCS. It appears we separately arrived at the same conclusions due primarily to the mere 2 MHz representing the entire 220 MHz allocation, the 5 KHz ultra-narrowband channels and the inability to offer full duplex telephone-like communications. These unique 220 MHz attributes preclude its' potential to provide similar services and thereby compete with Part 22 services, other Part 90 services or narrowband PCS.

2) Like AMTA, I am sure that it was not the intent of either Congress or the Commission to place even a minority percentage of 220 MHz licenses under a regulatory platform different from the rest simply because of the date of grant. In my eyes I certainly see this as basically in conflict with the whole concept of regulatory parity. Therefore, like AMTA, I would urge the Commission to modify its' stance and provide regulatory symmetry for all 220 MHz licensees. I believe this would be in the best interest of the public, the licensees and, perhaps most significantly, the Commission.

3) Without question the short filing window for 220 MHz applications caused many applicants to file without full knowledge of either the capabilities or limitations of 220 MHz service. This resulted in many, perhaps even most licenses being issued with parameters that preclude the most effective construction of the station authorized. In addition, the long delays between original application, subsequent grant and final resolution of pending litigation

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(Evans v. FCC dismissed March 18, 1994) have served to invalidate the parameters contained in many of the original applications. Tower sites that years ago could accommodate the intended construction no longer have sufficient space or, with dwindling space, now desire a rate which is unreasonable for a niche market commodity like 220 MHz service. In other cases, I have seen multiple 220 MHz licenses issued for the same exact site which may ultimately create interference problems thereby detracting from the 220 MHz service offering.

Indeed, those of us that have actually been constructing 200 MHz licenses have found Special Temporary Authorizations (STA) to be a requisite tool while the Commission's 220 MHz application window remains closed. Therefore, I too would urge the Commission in any new filing window first to permit modifications by existing 220MHz licensees and would add to their recommended Public Safety exception, Emergency Medical Radio Service (EMRS) applicants for 220 MHz allocations. This would insure that the fledgling 220 MHz industry and those subscribers already availing themselves of its' facilities don't incur any further setbacks.

4) Like AMTA, I am basically in support of regional 220 MHz systems as indicated in my early comments filing. Like AMTA, I believe any regional scheme should encourage prompt delivery of communications services to the public and therefore find both SunCom's original request for any eight (8) year buildout and its' subsequently revised five (5) year plan less than desirable. Independently of each other both AMTA and I envisioned a three (3) year plan as better serving the public interest and I feel that AMTA's proposed benchmarks are not unreasonable.

In my original filing, I indicated my belief that the aggregation of channels was at times requisite to providing proper service even on a local basis due to issues involving the terrain and commerce patterns in the area and of course these factors become magnified in a regional system. AMTA has recommended limiting regional licensees from holding any more than forty (40) channels in each geographic area. I find a need for better definition of "each geographic area" before I could comment on the viability of this limitation versus my proposal limiting the aggregation to no more than fifty (50) percent of the available channels. Since not all areas would require five (5) channels to provide sufficient capacity and the channels are issued exclusively within an area, I would urge the Commission to consider permitting the flexible deployment of channels within the geographic area assuming issues of border interference were adequately addressed.

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AMTA postulates that channel aggregation should only be available "to viable systems that are truly multi-market in nature" and proposes a minimum forty (40) sites be required for eligibility under any regional 220 MHz licensing rules. This minimum forty (40) sites appears somewhat arbitrary however, financial figures indicate anything less than twenty-five sites may not be very viable so at least thirty (30) should be mandated.

I share AMTA's concerns about larger, multi-market systems which appears may be more nationwide with greater capacity than that of an actual nationwide commercial 220 MHz licensee. I sense there is something wrong with such a potential scenario. SunCom is proposing to buildout an aggregate of over two-thousand (2,000) channels in the top seventy-five (75) major metropolitan markets plus..... thus I concur with AMTA that such license requests should be subject to the same extensive financial showings that the nationwide license applicants were subject to. AMTA did not propose establishing a minimum number of channels to initiate this requirement thus I would suggest that the Commission consider applications for aggregation of over one thousand (1,000) channels be required to meet the financial showings of a nationwide licensee.

Further, I am concerned that applications like SunCom's appear to only address the major metropolitan areas of the country and do not seem to indicate any intent of providing linkage between these areas. To me this appears contrary to both the desires of the Clinton Administration and the best interest of the public. The Commission may wish to include rules which require some percentage of these large scale aggregations be deployed in suburban and rural areas rather than merely permitting increased coverage of metropolitan areas which may already suffer from over exposure.

IN REPLY TO COMMENTS FILED BY SUNCOM MOBILE AND DATA, INC.

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In its' opening statement, SunCom states "For the reasons set forth below" it "submits that 220 MHz narrowband systems are substantially similar to other mobile service systems and must be afforded an opportunity to compete with them on a level playing field". Neither I nor AMTA concur with this stance and SunCom fails to provide any support for its' submittal anywhere in its' comments.

I believe it is clear that 220 MHz service is somewhat unique do to the limited, 2 MHz total, amount of spectrum contained in its' allocation and its' ultra-narrowband

channels both of which apply certain limitations that prevent it from providing the same capabilities as other offerings in Part 22, Part 90 or narrowband PCS. Thus I find SunCom's statement of substantial similarity without either merit or support.

Although I generally support the concept of regional 220 MHz licensing, I sense that the SunCom request for waiver asks too much and offers too little. SunCom requests the right to aggregate some five-hundred (500) QT five (5) channel commercial trunking licenses or a total of twenty-five hundred (2,500) channels to be deployed in the top MSA's of the country.

Additionally, they wanted an eight (8) year construction extension which they subsequently modified to five (5) years after it received negative feedback from industry trade associations, equipment manufacturers and those that would compete with SunCom. I have always been taught that competition was a good thing for everyone and all the other comments I have seen and those that I submitted went out of their way to insure both competition and the rapid deployment of 220 MHz service.

SunCom attempts to infer that the industry as a whole and its' potential competitors in particular are attempting to hold it back. To the contrary, it appears to me that it is SunCom that wishes to hold back the already too long delayed implementation of 220 MHz service. Its' request would permit them to tie up substantial numbers of 220 MHz licenses with little real commitment and a protracted construction table.

I submit that such a scenario does not represent the public interest nor the desires of the U.S. Congress, the Clinton Administration or the communications industry as a whole. Thus I would urge the Commission to consider the definitive need for regional 220 MHz licensing and provide rules which permit such regional licensing or aggregation of licenses to permit regional system construction and operation on a fair and equitable basis.

Respectfully submitted,

RF Technologies Group
Police Emergency Radio Services, Inc

By: Robert A. Fay

Its' President